

**FENCA**

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## Newsletter °46

**April 2009**



### **BOARD OF DIRECTORS**

**Kornel Tinguely (President), Switzerland (+41 21 349 25 05)**

**Carsten D. Ohle (Vice President), Germany (+49 40 28 08 260)**

**Marco Recchi (Secretary), Italy (+39 06 59 23 346)**

**Ivo Klimeš (Board Member), Czech Republic (+420 266 793 500)**



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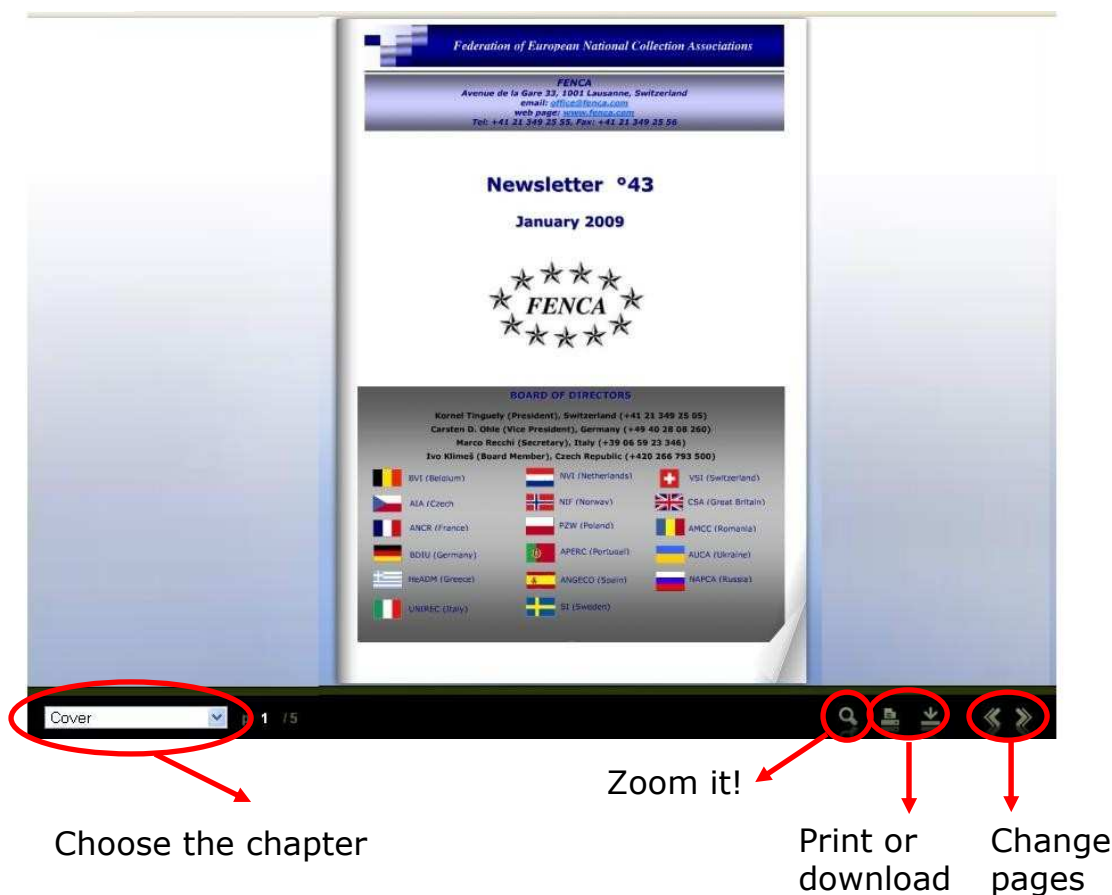
## Instruction

The newsletter is organized in the form of flipping book, with the index, option of downloading, printing and page changing.

The content is organized like in the previous newsletters:

- FENCA news,
- FENCA article,
- News from Brussels,
- News from Our Members,
- Publicity.

Now, instead of scrolling down the whole text, it is you who decide what you want to read and you jump to the selected article.



You can directly print from the web page pages you selected, but you will get a better quality if you download the whole document in .pdf and print selected pages

from there. Also **only** in the .pdf file you can use clickable links, for the needs of your readers we provide text of references at the last pages of the newsletter.

## FENCA News



The Board of Directors FENCA met in Cologne 23 and 24 of April, during the Annual Meeting of BDIU. During the meeting there were several key points discussed:

- We elaborated a new draft of the FENCA Statute, which will be proposed to the AGM in September. The final version will be presented by our General Secretary, Marco Recchi. It will be sent to all Delegates together with all documents concerning the congress.
- We learnt that our Vice President, Mr Carsten D. Ohle leaves BDIU at the end of the year, therefore it will be impossible for him to continue with FENCA. **The whole Board of FENCA thanks Mr Ohle for many years of his excellent work, his ideas and legal expertise.**

As the Board decided earlier to maintain the total number of its members on the level of 4, we announce new elections for the coming AGM. Conditions for the candidate to be elected:

*To be electable as a Board member the candidate has to be a member of a National board or appointed by a National board.*

*Nominations for new board members require:*

- a proposer
- a seconder
- written consent by the nominated persons that they agree to their nomination

*Nominations must be made in written to the Secretary and has to be received no later than 28 days before the AGM.*

- The Board did choose a new logo for the federation. The logo will be presented in one of the next newsletters, once will be registered on the European level.
- On April 23rd FENCA accepted a new member: Ukraine. The new Ukrainian association, Association of Collecting Business of Ukraine (ACBU) replaces the previous member, AUCA, which stopped to be a member of FENCA due to unpaid membership. More about the new association in the article on the page 9.

## Congress in Prague

### Thursday 24.09.2009

**15:00** Opening of the FENCA  
Reception Desk for Participants

**18:00** Welcome drink

**19:00** Opening of the Congress,  
Kornel Tinguely, President of  
FENCA, Switzerland

Opening speech: Vladimir  
Gazarek, President of AIA

Opening speech: Czech  
government representative

Opening speech:  
Representative of the Czech  
Chamber of Commerce

**20:00 - ?** Welcome Diner\*

\* **dress code: business suit**

**12:15 - 14:15** Lunch break



**14:20** **Conflicts' solution**



*Tim Fearon*

**15:00** **Late Payment Directive**



Juan Antonio Salazar Romero

**15:35 - 16:10** Coffee break



**16:10 - 17:00** Questions & Answers  
Ivo Klimes

**20:00 - ?** Reception + Gala diner  
and dance\*

\* **dress code: business suit / evening  
dress**

### Friday 25.09.2009

**09:35** **Field collection through  
Europe**



*Marco Recchi*

**10:15** **Data protection**



*prof. Vittorio Colomba*

**10:55 - 11.30** Coffee break



**11:35** **EU Law**



*Stefan Zickgraf*

**During the day there will be organised  
a field trip for accompanying persons:**

Strahov, Loreta and Prague Castle, lunch  
on the boat with the waterside sightseeing  
of Prague, Mala Strana and Cathedral of  
St. Nicolas

## **Saturday 26.09.2009**

**9:30** AGM FENCA

**At 12:00 there will be organised a field trip for accompanying persons and the Congress' participants upon subscription:**

Townhall and Powder Gate, walking by old streets to the Jewish Town, Old Town Square with Clock Tower, Tyn Cathedral and around Wenceslav Square.

**20:00 - ?** Concert and elegant diner in the city (upon subscription)

The concert and diner will be organized in the Kaiserstein Palace.

## **Sunday 27.09.2009**

**6:30 - 11:00** Breakfast & Check out



## Ferber-Software – Your IT Partner For Successful Debt-Collection

What is it that makes your debt-collection management successful? Perhaps it is because you have focused, for instance, on specific branches of industry and/or activities or on particular types of clients? Do you collect hundreds of thousands of ultra-small amounts using high-octane efficiency? Or are you an expert in B2B business?

**Whatever debt you collect – you can now optimise the management of all your debt-recovery operations with IKAROS.**

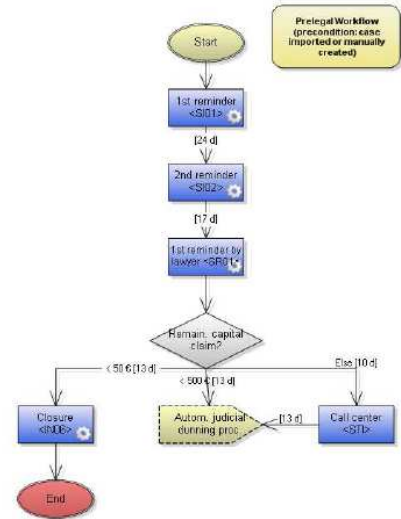
Are you also interested in meeting the special requests of your clients when it comes to the providing of interfaces, reports, workflows etc. ? Do you score extra points over the competition by offering conditions that can be fashioned in a particularly flexible style? Do you receive your account solicitation services on customer creditworthiness or address lists from just one specific service provider?

**Whatever debt you collect – IKAROS adapts to your individual needs.**

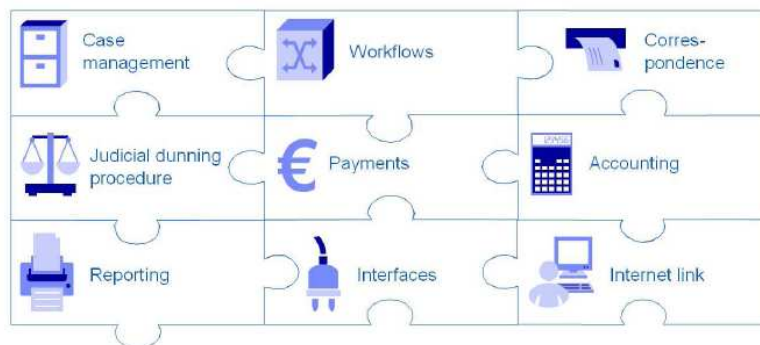
Is it imperative that your IT service provider is a reliable and efficient business partner? Do you wish to become actively involved in the future development of your software? Do you expect projects to be successfully brought to fruition on time and to the agreed budget?

**Whatever debt you collect – your satisfaction and your success are the most important targets on our radar. That's what we aim to collect.**

Take us at our word. We are looking forward to meeting you at our booth at the FENCA meeting in Prague.



### Optimizing you debt-collection management



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### Contact information



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vertrieb@ferber-software.com  
www.ferber-software.com



## **FENCA Article**

### **The history of creating the Associated Collecting Businesses of Ukraine (ACBU)**

The idea of creating a professional collectors' association came up at the beginning of the last year. During that period the creators observed an active development of the market as well as the increase in demand for collecting services among financial organizations. At the moment there was already a collectors' association (AUCA). Unfortunately it existed only nominally and was not active due to the bankruptcy of the founding companies.

In May 2008, the creators of ACBU initiated discussing the need of consolidation and creation of a professional Association with the largest market players. Initially, 12 Ukrainian collecting companies were invited to participate in a round table dedicated to creation of the Association. As a result of that initiative, in October 2008, 5 collecting companies signed a Memorandum of Intentions. In this group were: Credit Collection Group, Ukrborg, Verdict, and SIO. They joined forces in attempts to unite Ukrainian collecting companies.

The participation in FENCA World Congress which took place in France, in September 2008 also played an important role in creation of the Association. International knowledge and experience that the Ukrainian Delegation was exposed to during the conference allowed to find an appropriate vector for development of the Ukrainian organization.

In December 2008, the co-founders of the Association developed ACBU's charter, and wrote and approved the Code of Collector's Ethics and the Plan of Actions. At the end of 2008 the Charter was submitted for registration to the

Ukrainian Ministry of Justice. During the same period the members of newly created Association held a press-conference and publicly announce about the Association's creation, its tasks and goals.

Nearly 2 months, the ACBU Charter documents were being reviewed by Ukrainian executive officials, but at the end of February, all of a sudden, the government officials came out with an official statement about the need to ban collecting business in Ukraine. Sensational headlines in newspapers, public statements of influential politicians and government officials on the television about the ban – all of that seemed to be a nightmare.

The founders of ACBU clearly realized that they desperately need to establish transparent and effective communications with the government representatives. Luckily, along with Ukrainian Minister of Justice, representatives of largest banks and Ukrainian political elite, European Agency for Debt Recovery (a co-founder of ACBU) was invited to participate as an expert in one of the country's most influential talk-shows – "Freedom". It is there where the EADR managed to initiate a constructive dialogue between a collecting company and the government.

Due to this chance, the Ministry of Justice started a work-group that includes representatives of the National Bank of Ukraine, a number of collecting companies and ministries dedicated to creation of a law regulating Ukrainian collecting business. Furthermore, as a result of this turmoil, the Association was finally registered and on 20th of March accepted 5 new members.

**Source:** ACBU

## Nova, the intelligent solution to help your business grow.

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As the leading debt collection system, Nova offers efficient, functional and reliable solutions for its users. As one of the largest IT-suppliers in northern Europe, Tieto offers the deepest understanding of our customers businesses and needs.

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## FENCA Profile



## Marco Recchi

### Personal information

- Born in Rome on May, 20th, 1968
- married (with Clementina Mori since 1997), two sons (Luigi 6 years old and Francesco 3 years old)
- home address: Via Blaserna 40 ROMA

### Educational Background

- Scientific liceum "Max Planck" in Turin
- Degree in law at the Università degli studi di Roma "La Sapienza". Tesis in Worker's Rights: "Compared experiences regarding positive actions".
- Law and economics Teacher Certificate
- Attorney

### Experience

2002 - now FENCA (Federation European National Collectors Associations) Board Director

2001 - now Rome UNIREC (national association of collectors companies) national secretary

I have funded the local board of UNIREC, creating and managing the activities of the different macro-regional boards.

I have created, implemented and coordinated the examination about UNIREC's qualification plan for street collectors.

I have participated at the redaction of UNIREC's draw of law to have a new regolamentation of the sector (both in the study phase of the draw - as a responsible member of the study commission of the association - as in the redaction phase of the draw), as well, finally, participating at several meetings with the Italian Home office staff who are responsible for the new law.

I coordinate some general meetings (in Italy); I'm the responsible for UNIREC's newsletter entitled "UNIREC INFORMA", and - since September 2001 - I'm taking care of our monthly page in the economical newspaper "Italia Oggi" and on "Il sole 24 ore".

1998 - now Rome - Legal Office Giuseppe Pucci partner : I have written up and I write up actions and opinions in civil law and of the job. I prepare and I write up contracts and official notices print. I have participated to the writing of the charter of Association APA (association of the employee shareholders ACEA S.p.A..) and I have assisted this association in the relative placement - July 1999- and in the successive phases, implementations near CONSOB and the Ag.

1996 - 1998 Rome - CODACONS - (Committee for the defence of consumers rights and the atmosphere). Legal adviser: I have written up actions and opinions of

administrative, straight right of the job and civil law, with particular care to the relationships P.A. and Thirds party; passive smoke, mobbing, emergency on the job, ISO 9000, management given computer science and sensitive. I have written up communicated press and carried out searches and deepening in within of the relationships: Italian great companies for Television, Telecommunication and energy (RAI, Telecom, E.n.e.l.) - Authority (competition; communications; etc.)

1996 - 1998 Rome AIIREC (association of credit collection agencies) Advisor. My activity essentially has been carried out writing up rerun to the Tar ( regional Administrative Court) for the limits given to the activity the Ministerial circulars, and with the writing of opinions on (stragiudiziale) recovery, P.A. in a generalized manner, beyond that the competences and functions of the same one in. Relationships with the press and the institutions. I have collaborated to the preparation of conventions and meeting beyond that to the writing of a bill.

1994 - 1996 Roma Caritas Diocesana di Roma -Servizio Giuridico per la tutela e l'assistenza dei poveri- segretario e Fondazione Antiusura "Salus Populi Romani" secretary (legal advisor) Responsible of the relationships with Banks, Press and Public Administration. Within of my functions re-entered the fiscal control of case and relationships with the P.A. for financings and implementations, and also the relationships with the press, writing up communicated press and preparing the review print on the arguments of greater interest. I have collaborated to the preparation of meetings where I had a speech several times (luckily in Italian language!!!)

1990 - 1994 Rome - P&A - (company involved in exposures and conventions organisation). HR Responsible. Within this society I was in charge of the recruitment and the management of all the staff employed, hostesses and stewards, having several responsibilities from the logistics to the payments. I was occupied, moreover, of the monitoring competitors and traffic of passive improvement (it's a economical technique)

1988 - 90 Turin - Radio Veronica One-speaker and wireless conductor •

Published book and articles I wrote as co-author "guida alla Gestione dei crediti" a guide about debt's collection in Italy I wrote several articles on Italian economical newspaper "Il sole 24ore" "italia Oggi".



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## News from our Members



### News from Belgium

#### A new law enforces the Amicable Debt Collection Act for Bailiffs

The Belgian Parliament voted a new law on 5 March 2009 (published 7 April, applicable since 17 April 2009) which stipulates that bailiffs, must apply the Amicable Consumer Debt Collection Act (voted 2002).

Belgian bailiffs are "Judicial Officers". They are appointed by the King and have official tasks along with a private commercial activity. In the last 5 years, a few amongst the 500 Belgian bailiffs developed a quite significant debt collection activity.

The 2002 Amicable Consumer Debt Collection Act stipulates that no charge can be added to the principal amount of a debt, except the interest charge and the indemnity as agreed between the creditor and his client/debtor in the contract between them.

The 2002 Act left room for interpretation regarding bailiff's debt collection activity. When they collected debts, some bailiffs added significant costs to the debtor on top of the agreed interest charge and indemnity. Some bailiffs could, in this way, demand up to more than € 250 for an initial €100 debt.

With the new law, this is now clearly prohibited for any actor attempting to collect a third party consumer receivable. The new Act applies to any consumer debt collection efforts foregoing to a formal summon to courts.

The new Act also stipulates that bailiffs must specify to the debtor, in writing, that "this letter is about an

amicable debt collection, as opposed to courts collection (summon to courts or seizure)".

All other aspects of the 2002 Act are enforced for bailiffs except a few articles regarding their registration (not applicable as they are appointed by the King) and the control of their activity (as they are not submitted to the control of the Federal Public Service Economy).

Such other aspects include the obligation to provide the name, address, registration number and telephone number of the original creditor, a clear description of the cause of the debt and a clear description of the debt amounts. The Act also stipulates that no action can be undertaken by the bailiff or debt collector in the 15 days following his first letter to the debtor.

The ABR-BVI welcomes this new Act. As from 2003, the ABR-BVI (Belgian Collectors Association) has warned the authorities about the questionable behaviour of some bailiffs and its impact on the economy and consumers.

This new Act results from protracted efforts of Consumer Organizations and the ABR-BVI.

The new Act entails no change for debt collectors' procedures. The new Act simply applies the 2002 Amicable Consumer Debt Collection Act to bailiffs (and attorneys).

This 2002 Act was largely based on the ABR-BVI Code of Ethics (1998) and was voted after other parliament proposals, back in 1997, to simply ban debt collector's activity.

ABR-BVI members excel in solving debts amicably. Ninety-five percent of our claims are solved out of courts. The new Act will shift yet more creditors to ABR-BVI members. And the icing on the cake for Belgium is that tribunals will have less work.

Working with an ABR-BVI member guarantees that your collection partner:

- Is professional and cost-effective, both for actual cash flow generated and for systematic and structured information to the creditor;
- Abides by the law;
- Applies at least minimal requirements towards the debtor and towards the creditor (Code of ethics on [www.abrbvi.be](http://www.abrbvi.be));
- Has his company solvency checked once a year by the ABR-BVI.

You want a professional collection partner, talk to an ABR-BVI member!

**Questions** : Etienne van der Vaeren, Chairman.

Tel.: +32 16 74 52 05

E-mail: [e.vandervaeren@tcm.be](mailto:e.vandervaeren@tcm.be)

## News from Brussels

### ★ Review of "Brussels I Regulation":

A full revision of the Brussels I Regulation has been announced by the EC in February 2009. A broad abolition of the heavy and costly exequatur procedure is the kernel of the objectives. The background of the Commission's report ([http://ec.europa.eu/civiljustice/news/docs/report\\_judgements\\_en.pdf](http://ec.europa.eu/civiljustice/news/docs/report_judgements_en.pdf)) (available on the [www.fenca.com](http://www.fenca.com), section "Documents", position no 49) and green paper ([http://ec.europa.eu/civiljustice/news/docs/green\\_paper\\_judgements\\_en.pdf](http://ec.europa.eu/civiljustice/news/docs/green_paper_judgements_en.pdf)) (available on the [www.fenca.com](http://www.fenca.com), section "Documents", position no 50) is the Commission's duty following to the provisions of Art. 73 Brussels I Regulation to evaluate the operation of the Regulation and to provide a report on the application of the Regulation. Finally the report shall be accompanied, if necessary, by proposals for adaptations to the Regulation.

★ In preparation of the Commission's report, a study ([http://ec.europa.eu/civiljustice/news/docs/study\\_application\\_brussels\\_1\\_en.pdf](http://ec.europa.eu/civiljustice/news/docs/study_application_brussels_1_en.pdf)) (available on the [www.fenca.com](http://www.fenca.com), section "Documents", position no 51) has been carried out on behalf of the Commission by an external contractor - the Institute for Private International Law, University of Heidelberg. While this study shows that the Regulation operates, in principle, well, it reveals some difficulties as well which need to be addressed.

As a conclusion, the Commission addresses in the report and the green paper, the following issues:

- The removal of the remaining obstacles to a free circulation of judgments, i.e. the removal of "exequatur"
- The protection of European citizens and companies in case of disputes with parties domiciled in third States, in particular by ensuring equal access to the courts of the Member States and equal protection against judgments given by the courts of third States against European defendants;
- Finally, certain imperfections in the application of certain rules of the Regulation, such as avoiding parallel proceedings in different Member States and ensuring the sound application of contractual agreements as to which courts will deal with the case in the Union

According to the Commission, the report and the green paper aim at launching a broad public consultation on possible ways forward with regard to the mentioned issues. The deadline for consultation is 30 June 2009 ([http://ec.europa.eu/civiljustice/news/whatsnew\\_en.htm](http://ec.europa.eu/civiljustice/news/whatsnew_en.htm)).

A proposal for revision of the Regulation is planned for the end of this year.

At present the FENCA - team in Brussels is analysing the green paper in how far the issues are relevant to the Debt Collection Industry. In the next week the team will send its findings and comments to FENCA members in order to prepare for a stakeholder statement and thus contributing to the actual revision where necessary and possible.

★ **Collective Redress**; hearing at the 29th of May  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20090326+ITEM-003+DOC+XML+V0//EN>

In April 2008, the Commission announced it will propose corrective measures to address the legal and procedural obstacles which it believes are denying compensation to victims of antitrust violations, including businesses as well as consumers.

The EU executive suggests small businesses and individual consumers should be able to engage in 'collective redress', making it easier for small claimants to take action by allowing a large number of small claims to be bundled together and brought to court by a third-party representative, such as a recognised consumer organisation.

However, to avoid what EU Competition Commissioner Neelie Kroes terms "the potential excesses of the US system," such collective redress could not take the form of class-action lawsuits by individual law firms.

EU Consumer Protection Commissioner Meglena Kuneva has also spoken out against the use of class-action lawsuits - viewed by many Europeans as aggressive and unscrupulous - as part of her plan to strengthen consumer rights.

On the 29th of May Mr. Zickgraf, from the FENCA team in Brussels will attend a public hearing to represent FENCA's interests. At the present stage it seems more adequate to analyse carefully how the Member States tackle the issue with partly quite new legal instruments of "collective redress" before setting-up a new European regulatory framework, which after all may create new and uncontrollable legal risks for entrepreneurs.

★ EC's initiatives on the "Attachment of bank accounts" (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:263E:0655:0657:EN:PDF>) (available on the [www.fenca.com](http://www.fenca.com), section "Documents", position no 52):

- a public hearing is planned for September/October 2009

and the "Transparency of debtors assets" ([http://ec.europa.eu/justice\\_home/news/consulting\\_public/news\\_consulting\\_public\\_en.htm](http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_public_en.htm))

- internal consultations within the EC services shall be concluded in the second half of 2009, then a public consultation shall follow.

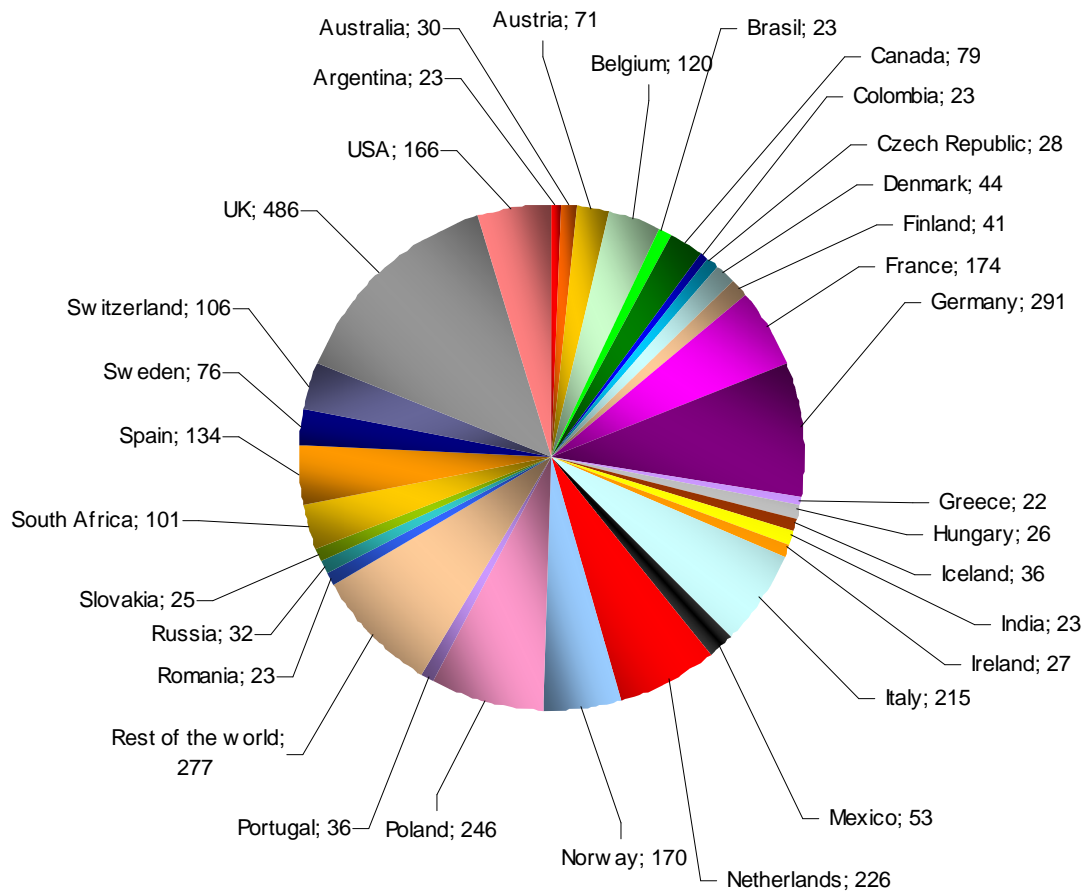
★ In as much as the "e-justice" portal (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:075:0001:0012:EN:PDF>) (available on the [www.fenca.com](http://www.fenca.com), section "Documents", position no 53) is concerned, according to the responsible EC-officer Joao d'Almeida, tangible results are envisaged by the end of 2009: i.e. on-line applications regarding the European Payment Order shall be possible and video-conferences for Small Claims Procedures shall be tested and then be made available throughout the European Union.

## Place for your publicity



## Our readers

As for March 25th we crossed the line of 3000 readers, all of them connected to the debt collection industry.



## Member countries



**Belgium:**

<http://www.abrbvi.be/>



**Czech Republic:**

<http://www.aiacz.cz>



**France:**

<http://www.ancr.fr/>



**Germany:**

<http://www.inkasso.de/>



**Great Britain:**

<http://www.csa-uk.com/>



**Greece:** HeADM Hellenic Association of Debt Management Companies



**Italy:**

<http://www.unirec.it/>



**Netherlands:**

<http://www.nvio.nl>



**Norway:**

<http://www.inkasso.no/>



**Poland:**

<http://www.polskizwiazekwindykacji.pl/>



**Portugal:**

<http://www.aperc.pt>



**Romania:**

<http://www.amcc.ro>



**Russia:**

<http://www.napca.ru>



**Spain:**

<http://www.angepco.com/>



**Sweden:**

<http://www.svenskinkasso.se/>



**Switzerland:**

<http://www.vsi1941.ch/>



**Ukraine:** Associated Collecting Business of Ukraine

# FENCA

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